

**BEFORE THE ALASKA OFFICE OF ADMINISTRATIVE HEARINGS ON REFERRAL
BY THE COMMISSIONER OF HEALTH AND SOCIAL SERVICES**

In the Matter of)
)
 L D)
_____)

OAH No. 15-0834-CMB
Division No.

DECISION

I. Introduction

L D applied for Adult Public Assistance (APA) and Medicaid benefits on March 17, 2015. The Department of Health and Social Services, Division of Public Assistance (Division) denied her application. Ms. D requested a hearing regarding the denial of her application for Medicaid benefits.¹ The Division subsequently approved Ms. D for Medicaid benefits effective June 1, 2015. This, however, did not resolve this case. Ms. D proceeded to hearing on the issue of the benefit start date, including whether she should receive retroactive Medicaid coverage for the three months preceding her application.

Ms. D's hearing was held on July 29, 2015. Ms. D represented herself. Public Assistance Analyst Sally Dial represented the Division.

The evidence in this case shows that Ms. D was not financially eligible for Medicaid benefits until June 2015, when she created a Medicaid qualifying income trust. As a result, even though there was some delay in processing Ms. D's application, the Division's decision which effectively denied her benefits for the months preceding June 2015 is upheld.

II. Facts

The following facts were established by a preponderance of the evidence.

Ms. D applied for Medicaid benefits on March 17, 2015. Ms. D's monthly income, at all times relevant to this case, consisted of \$1,148.90 in gross social security (SSA) income and \$259 from a pension.² Her total gross monthly income is \$1,407.90. At the time Ms. D applied for Medicaid benefits, she was paying a Medicare premium of \$104.90, which was deducted from her SSA payment.³ Ms. D has unpaid medical bills, which date back to December 2014.⁴

¹ Ms. D only appealed the denial of her application for Medicaid benefits. *See* Ex. 6. As a result, this decision does not address any issues regarding her application for APA benefits.

² Exs. 2 – 2.14, 3.1, 4.1.

³ Ex. 3.1.

The Division interviewed Ms. D regarding her application on May 18, 2015. The Division initially denied Ms. D's application for failure to provide it with information which it had requested about her pension income. It, however, determined that she had provided it with the necessary information.⁵ The Division then calculated that Ms. D had countable income of \$1,387. It arrived at this figure by determining that Ms. D was entitled to a \$20 deduction (income exclusion) from her gross income of \$1,407.90.⁶ The Medicaid countable income limit for one person, who lives independently, is \$1,362.⁷

The Division then notified Ms. D, on June 17, 2015, that her application was denied because her income was too high, and that she might become eligible if she set up a Medicaid qualifying trust.⁸ The Division did, however, approve her for a benefit program whereby it would pay her Medicare premium.

Ms. D promptly created a Medicaid qualifying trust, which was funded on June 22, 2015, and registered with the Superior Court on June 00, 2015.⁹ The Division subsequently approved Medicaid coverage for Ms. D effective June 1, 2015.¹⁰

III. Discussion

Ms. D applied for Medicaid benefits. The Medicaid program uses the same financial requirements as the APA program.¹¹ One of these requirements is that a recipient, not living with a spouse, may not have more than \$1,362 in monthly countable income.¹² Countable income is the income remaining after a limited number of deductions (income exclusions) are applied. For a person, such as Ms. D, who has only unearned income (social security and pension payment), the only allowable deduction is \$20.¹³ There is no deduction available for Medicare premium payments.¹⁴ Her countable income was therefore \$1,387, which made her financially ineligible for Medicaid.¹⁵

⁴ Ms. D's testimony.

⁵ Ex. 4.

⁶ Ex. 3.

⁷ Ex. 10.

⁸ Ex. 5.

⁹ Exs. 6 – 6.32.

¹⁰ Ms. Dial's statement; Ms. D's testimony.

¹¹ 7 AAC 100.400(a).

¹² 7 AAC 40.310; Ex. 10.

¹³ 7 AAC 40.320(a)(23).

¹⁴ There was some discussion about whether the Division's coverage of Ms. D's Medicare premiums should result in the entire amount of Ms. D's SSA payment being counted as income. However, after research, it is clear

A person may, however, financially qualify for Medicaid if he or she creates and funds a properly qualified Medicaid income trust, which reduces his or her countable income to less than the applicable income limit.¹⁶ Ms. D created such a trust in June 2015, which made her financially eligible for benefits effective June 1, 2015.

The approval of Ms. D's application effective June 1, 2015 results in two issues. The first is whether it should have been approved earlier. There was delay involved in processing Ms. D's application. She applied on March 17, 2015. However, she was not interviewed regarding her application until May 18, 2015, and not notified of her financial ineligibility until June 17, 2015, which resulted in her immediately setting up the necessary Medicaid qualifying income trust, making her eligible in June. Ms. D was not financially eligible for benefits in March, April, or May 2015 because her income exceeded the income limit. Although the Medicaid regulations provide that normal processing time for applications is 30 days, the regulations do not contain any provisions which allow eligibility to be imputed due to departmental delay.¹⁷ In addition, even if the Division had acted immediately upon Ms. D's application, it would be speculative to assume that she would have created the necessary trust in time to qualify for any of the months of March, April, or May 2015. Consequently, Ms. D was not eligible for benefits for those months.

The second issue is whether Ms. D should have been approved for Medicaid benefits during the three months immediately preceding her March 2015 application, which would be December 2014 through February 2015. An applicant can receive retroactive Medicaid benefits for any or all of the three months preceding an application if he or she has unpaid medical expenses during that time period and is financially eligible for Medicaid during the month or months in question.¹⁸ Ms. D does have unpaid medical bills from December 2014. However, as found above, Ms. D's countable income, at all relevant times, exceeded the eligibility income limit. Ms. D was therefore not eligible for Medicaid benefits for the three months preceding her March 2015 application.

that the gross amount of Ms. D's SSA payment is considered as income, and no deduction is allowed from it for her Medicare payment premium, even if she paid it herself. *Alaska Adult Public Assistance Manual* Section 441-2A.

¹⁵ Ms. D's total gross income was \$1,407.90. After she received a \$20 deduction, as allowed by regulation, her countable income was \$1,387.90, which exceeded the financial eligibility limit of \$1,362.

¹⁶ 7 AAC 100.604(a)(1). The APA program does not have a similar provision allowing an applicant to decrease his or her countable income by setting up a trust. *See* 7 AAC 40.300 – 350.

¹⁷ 7 AAC 100.018.

¹⁸ 7 AAC 100.072.

IV. Conclusion

The Division's denial of Ms. D's application for Medicaid benefits prior to June 2015 is upheld.

DATED this 2nd day of September, 2015.

Signed _____
Lawrence A. Pederson
Administrative Law Judge

Adoption

The undersigned, by delegation from of the Commissioner of Health and Social Services, adopts this Decision, under the authority of AS 44.64.060(e)(1), as the final administrative determination in this matter.

Judicial review of this decision may be obtained by filing an appeal in the Alaska Superior Court in accordance with Alaska R. App. P. 602(a)(2) within 30 days after the date of this decision.

DATED this 18th day of September, 2015.

By: *Signed* _____
Name: Lawrence A. Pederson
Title/Agency: Admin. Law Judge/OAH

[This document has been modified to conform to the technical standards for publication.]